

EXHIBIT 8

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
CASE NO. 1:16-CV-0074

BENEZET CONSULTING, LLC and
TRENTON POOL

PLAINTIFFS

v.

PEDRO A. CORTES and
JONATHAN MARKS

DEFENDANTS

* * * * *

The deposition of MARK GAILEY was taken before Shannon L. Wheeler, Court Reporter and Notary Public in and for the State of Kentucky at Large, at An/Dor Reporting & Video Technologies, Inc., 179 E. Maxwell, Lexington, Kentucky, on September 30, 2016, commencing at the approximate hour of 10:30 a.m. Said deposition was taken pursuant to Notice, heretofore filed, for any and all purposes permitted under the Federal Rules of Civil Procedure.

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AN/DOR REPORTING & VIDEO TECHNOLOGIES, INC.
SHANNON L. WHEELER, COURT REPORTER

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I N D E X

WITNESS: Mark Gailey

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1 The witness, MARK GAILEY, after first being duly
2 sworn, was examined and testified as follows:

3 CROSS-EXAMINATION

4 BY MR. JOEL:

5 Q Good morning, Mr. Gailey. My name is Kenneth
6 Joel. I represent the Defendants in this
7 case along with my colleague, Nicole
8 Radziewicz. Have you ever been deposed
9 before?

10 A I have not.

11 Q Let me give you a few rules that will make
12 this go a lot smoother and faster. First one
13 is, if you could wait until I finish my
14 question, and I will wait until you finish
15 your answer, because it will be easier for
16 the court reporter to take everything down
17 and it will create a cleaner record that we
18 can read down the road. Is that okay?

19 A That's good.

20 Q If you can't hear me at any point, please ask
21 me to repeat the question. I'll be happy to
22 do so. Okay?

23 A Very good.

24 Q I would ask that you answer verbally all of
25 the questions, yes, no. Whatever explanation

1 you need to give is fine as long as it is the
2 truth, but stay away from nods, shrugs, the
3 uh-huhs and huh-uhs because it's harder for
4 the court reporter to take down and we won't
5 know what your inflection was when we read
6 this in the future. Okay?

7 A Okay.

8 Q If at any point you don't understand a
9 question, if you're confused, please just
10 tell me what your confusion is and I will be
11 happy to rephrase it. Is that okay?

12 A Yes, sir.

13 Q Is there any reason, medical or otherwise,
14 that you can't hear me or understand me or
15 answer truthfully today?

16 A Not that I know of today.

17 Q So are we in agreement that if you do answer
18 you have heard me, you've understood me, and
19 you've answered truthfully to the best of
20 your ability?

21 A That will be the assumption I proceed on.

22 Q Very good. What's your full name, please,
23 sir?

24 A I am Mark Gailey. On birth certificate, Mark
25 Alan Gailey. A-L-A-N. And that's

1 G-A-I-L-E-Y.

2 Q Thank you. And what's your address?

3 A 105 Forest Street, Apartment Number 1. It's
4 in Berea, B-E-R-E-A, Kentucky 40403.

5 Q How long have you lived there?

6 A Three years.

7 Q Just briefly, can you give me what your
8 educational background is?

9 A I've graduated in Berea Community School,
10 also a year at Berea College. I finished up
11 several years doing broadcast as a bachelor
12 of arts degree and finished with that degree
13 at Eastern Kentucky University. So broadcast
14 communications was my specialty.

15 Q What year did you get your degree from
16 Eastern Kentucky?

17 A That would have been the end of '91.

18 Q Where do you currently work?

19 A I've worked for myself since age 12.

20 Q What do you currently do for work?

21 A I do various services. Mostly yard work, but
22 also people, pet and home care. Also
23 political canvassing, costume promotions and
24 some minimal tech advice.

25 Q Political canvassing, what do you do in

1 relation -- what do you do for that job?

2 A Well, that would be the political petitioning
3 for the most part. I would have considered
4 going into other areas like fundraising, but
5 it's just been a requirement to make sure
6 that ballot access is available to
7 alternative candidates. So that being a
8 strong need, there has been a mercenary
9 benefit to allow me some commission to work
10 in the area over many years since 1980.

11 Q So do I understand you correctly that from
12 1980 to the present you have at least on a
13 part-time basis been out in the field
14 collecting signatures to get candidates on
15 the ballot?

16 A That is correct.

17 Q And you said that you work for yourself. Are
18 you an independent contractors as it relates
19 to political canvassing and signature
20 gathering?

21 A I am, but I do have a position with the state
22 executive committee of the Libertarian Party.

23 Q And that state executive committee would be
24 for the Commonwealth of Kentucky?

25 A Yes.

1 Q From 1980 to the present, as it relates to
2 your petition -- your signature gathering
3 efforts, have you ever been employed by
4 another company or have you always done this
5 as an independent contractor?

6 A Independent contracting has always been the
7 mode. Working in that respect there are
8 different management teams along the
9 contracting hierarchy, so the question could
10 be answered a couple of ways. But it's
11 never -- I've never been an employee of any
12 particular firm.

13 Q When you talk about different management
14 teams, what are you getting at by that?

15 A Loose associations originally got me into the
16 arrangement, and the payments and the orders
17 or the expectations would be laid out by
18 political committees in some cases, and then
19 through other independent contractors who
20 were in a position of coordinating for the
21 purpose of not allowing too much work to be
22 gathered on this commission basis so that
23 there would be some good management and
24 understanding of the focus and the targeting
25 of how much or how little work there actually

1 was.

2 Q When you talk about -- well, let me ask you
3 this: When you do your signature gathering
4 efforts, are you paid per signature you get?

5 A Yes, it is a commission basis by signature.
6 The rates vary. Often a minimal amount will
7 be required on a volunteer basis to justify a
8 reasonable separation of conflict of interest
9 from me being on a state board.

10 Q What do you mean by that?

11 A That a lot of folks do volunteer to do the
12 same work the mercenaries are doing. They
13 don't have the same expertise and quality
14 work in many cases, but people make an effort
15 and so to the degree that I try to be in the
16 volunteer of a small organization, sometimes
17 that is something I try to match.

18 Q I'm going to go back in time. I may or may
19 not go all the way back to 1980, we'll see,
20 but for the 2016 election cycle, were you out
21 there collecting signatures for various
22 candidates?

23 A Yes. I often work more in the independent
24 and third or alternate party candidacy area,
25 but in this case I was brought in by some

1 associates in the winter season which is when
2 the bi-partisans are working on their ballot
3 access for the primaries.

4 Q Were you brought in by Benezet?

5 A Yes, that was -- all of my work has been
6 under Benezet until -- for the bipartisan
7 effort all of it was through Benezet, and I
8 believe he was involved in what little bit I
9 did here in Kentucky as well, although it was
10 done through other managers.

11 Q So let's start with the 2016 election cycle.
12 What was the first petition signature
13 collection efforts that you did? What state?
14 Let's start with the state.

15 A I started out in Illinois, drove to East
16 Peoria and we had a stack of candidates,
17 both -- in Illinois the requirement is only
18 to work in one party as opposed to the rules
19 that are different in other states, and we
20 were allowed to do more than one candidate
21 for president. We also had some petitions
22 for the actual delegates that would be
23 required in that process, and we also had an
24 additional petition that was setting an
25 initiative on the ballot for Illinois voters

1 relative to gerrymandering.

2 Q How long were you in Illinois doing that
3 collection work?

4 A I'm forgetting the specifics because we were
5 not happy with some of the terms there. It
6 was two to three weeks. It was not quite a
7 full month and then we transitioned on to
8 Indiana, the promise that we were given that
9 we would be working from walking lists.
10 Since we were restricted to work for only one
11 party, that was a practical approach. And
12 the folks that were coming up with the money
13 did not ever follow through with making those
14 available.

15 Q And just to circle back, make sure I
16 understand, the work you did in Illinois was
17 that as an independent contractor for
18 Benezet?

19 A Yes, it was.

20 Q And you mentioned in Illinois you were
21 restricted to collecting for one party. Is
22 that because there's something in Illinois
23 law or was that Benezet's requirement? What
24 was that about?

25 A Well, Benezet had to follow Illinois law.

1 Each state has varying rules, which makes it
2 very difficult for folks like Benezet to
3 manage because each state has to be
4 researched separately and a different set of
5 rules are used, and so different impediments
6 have been built into the system that cannot
7 be approached and reconciled on a national
8 basis.

9 Q So is it your testimony then that in Illinois
10 the Illinois law restricts signature
11 gatherers to collecting for one party or the
12 other as it relates to the primary?

13 A Well, even beyond the primary, yes. Yes, and
14 even beyond the primary. For an example, in
15 2012, I was able to work for three different
16 independent or alternative candidates in
17 Alabama. That would never be allowed in
18 Illinois. It would disqualify.

19 Q So who did you collect for in Illinois then
20 when you were there?

21 A Principally, I went in to work for Rand Paul
22 and Ted Cruze, and there were also names
23 which I don't remember that would have been
24 delegates for either or one or the other of
25 the candidates.

1 Q When you were in Illinois doing that work,
2 did you go to various locations around the
3 state to collect signatures?

4 A I worked mostly East Peoria. I made one
5 jaunt across the river into Peoria proper
6 because it's a bigger metropolitan area. The
7 focus is to find the right neighborhoods, and
8 I probably didn't pick the right density
9 within the party that I was targeting, so I
10 only did that briefly. I could have taken up
11 different places, but inasmuch as we were
12 looking for targeted lists that were
13 Republicans and that was not forthcoming,
14 that would have governed the prudence of
15 those choices, and so that was part of the
16 reason that I moved on to Indiana.

17 Q Do you remember how many signatures you were
18 able to get in Illinois?

19 A I don't. I've submitted copies of my invoice
20 to the court process that were in a subpoena
21 that were handled by you through the emails
22 and allegedly to be delivered by the 14th of
23 this month.

24 Q And when you were in Illinois, did you stay
25 at different hotels in different locations or

1 did you stay in the same place for the whole
2 time?

3 A I believe that we just stayed at the one
4 Motel 6 in that town, yes.

5 Q After you worked in Illinois did you then go
6 straight on to Indiana?

7 A Yes.

8 Q How long were you in Indiana for?

9 A Again, I'm not remembering the absolute
10 specifics. It was more than a month.
11 Probably seemed like five weeks or so.

12 Q And did I understand you correctly that in
13 Indiana you were also restricted that you
14 could only collect for one party?

15 A No. There was an issue about being clear
16 with the folks that are being asked to sign
17 as to whether there was a first-in,
18 first-counted understanding. My
19 understanding is that you can't tell someone
20 that they can or cannot sign a petition. The
21 different state rules come in with different
22 procedures and administrative policy as to
23 how those will be counted if the same person
24 ends up signing more than one.

25 Q And did you collect -- who did you collect

1 signatures for in Indiana?

2 A We, again, started with Rand Paul, Ted Cruz,
3 added on the Democrat at the time, Rocky De
4 La Fuente, and so those were my principal
5 bulk of work for that Indiana campaign.

6 Q Do you remember how many signatures you
7 achieved for any of those folks?

8 A No, I don't remember specifics because I
9 haven't glanced at them. They were all paid
10 up. They were in the invoices that you have
11 received copies of. I do know that I made
12 good volume in Indiana at either three or
13 three-fifty per signature netting the kind of
14 results -- one weekend in Evansville, I made
15 1,200 at a gun show, and another one in
16 Elkhart, started Friday and made 2,350.
17 These were an anomaly of the kind of money
18 I'd like to bring down throughout the week
19 and throughout the month, but that was the
20 high side of the venture.

21 Q And you mentioned Evansville and Elkhart. Am
22 I correct that when you were in Indiana for
23 that five weeks or so you moved around to
24 different parts of the state to collect
25 signatures?

1 A Yes. We did well targeting gun shows in, for
2 me at least, five communities, and I went to
3 several others as well just to make sure we
4 had good coverage between the different
5 congressional districts.

6 Q And when you moved around to these different
7 locations over the five weeks did you stay in
8 different hotels?

9 A Yes. Yes. Let's see, sometimes we would --
10 we would get lucky and stay. It's more
11 comfortable to stay in place, but typically
12 we would have to move on just to -- just for
13 the convenience of the paperwork and
14 submitting the requests for the money to
15 cover them.

16 Q And was the work in Indiana also done as an
17 independent contractor for Benezet?

18 A Yes, it was.

19 Q After Indiana where did you go to collect
20 signatures?

21 A I made a very brief trip up to Wausau,
22 Wisconsin, and that was the only town that I
23 worked in Wisconsin.

24 Q And was that trip up to Wisconsin as an
25 independent contractor for Benezet?

1 A Yes, it was.

2 Q And was that -- and who did you collect for?

3 A That was strictly for Rocky De La Fuente.

4 Q And was that for Rocky De La Fuente as a
5 Democrat to get on the Democratic primary in
6 Wisconsin?

7 A Yes, it was.

8 Q Do you know how many signatures you got?

9 A No, not right off-hand.

10 Q And how long were you in Wisconsin?

11 A Again, I'm working from memory. It probably
12 would have been about 10 days.

13 Q And did you go straight from Indiana to
14 Wisconsin?

15 A I made one or two trips back to Kentucky,
16 both for holiday events and for the passing
17 of my mother, and so I believe that was a
18 time when I ended up going to Kentucky first
19 just very briefly.

20 Q And did you stay in the same hotel when you
21 were in Wisconsin or did you move around to
22 different places?

23 A No, it was the same hotel.

24 Q Where did you go after Wisconsin?

25 A We next moved on to Pittsburgh.

1 Q And was that as an independent contractor for
2 Benezet as well?

3 A Yes, it was.

4 Q Did you go straight on from Wisconsin to
5 Pittsburgh?

6 A Again, I think I made a Kentucky trip because
7 it was about the time that my mother was
8 passing.

9 Q How long were you in Pennsylvania for?

10 A Again, my memory would say between three and
11 five weeks. I'm not remembering
12 specifically. The invoice tracking of that
13 would be clear.

14 Q And who did you collect signatures for when
15 you were in Pennsylvania this time?

16 A We principally started with Rocky De La
17 Fuente Democratic primary campaign. There
18 was a little bit of work that we were hoping
19 for that didn't get assigned quickly in the
20 Republican primaries for the Rand Paul and
21 Ted Cruz again. I ended up -- by that time,
22 Rand Paul had dropped out. Ted Cruz was
23 required, along with delegates, to support
24 his documentation, and so I worked directly
25 under one of those delegates.

1 Q So did you collect signatures for the Ted
2 Cruz campaign?

3 A Yes.

4 Q And did you collect them for Ted Cruz or for
5 Ted Cruz's delegates?

6 A Both.

7 Q Can you give me any estimate as to how many
8 signatures you collected for Rocky De La
9 Fuente as the Democratic candidate for
10 president?

11 A No, it's not -- not given to my memory.

12 Q Can you give me any estimate as to how many
13 signatures you collected for Ted Cruz as a
14 Republican candidate for president in
15 Pennsylvania?

16 A Since the walking lists and the orders to go
17 in that direction were late and slow, it was
18 certainly less than a hundred on each.

19 Q So less than a hundred for Cruz and less than
20 a hundred for his delegates?

21 A I think so, as I remember.

22 Q And when you say that was because getting the
23 walking list was slow, explain to me what you
24 mean.

25 A Well, the folks that finance are in charge

1 and they can, as political organizations,
2 they have access to the full voting lists at
3 a paid rate. I'm not sure of the process,
4 but we count on them getting those, and then
5 working through the database and the sorting
6 and reporting from those lists to something
7 that is a little easier to walk with. We
8 couldn't walk with the entire voters list of
9 the state.

10 Q So do I understand you correctly that either
11 the campaign or somebody is in charge of
12 getting these voting lists, culling them down
13 and putting them into more digestible amounts
14 where you as a signature collector then takes
15 so you know where the Republican houses are
16 so you can knock on those doors and get the
17 signatures more easily?

18 A Yes, that's exactly right.

19 Q And as it related to Cruz, you didn't get
20 those as quickly as you had hoped and that
21 hindered your ability to get signatures?

22 A Right. The assignments to go ahead in that
23 direction were filtered through Benezet and
24 we could only wait for the money and the
25 orders to come through.

1 Q You mentioned that you were in Pittsburgh.

2 Did you go to different locations around
3 Pennsylvania or were you only in Pittsburgh?

4 A Pittsburgh is pretty big. I did travel
5 throughout Pittsburgh. In 2012, I was
6 centered in the south county below it,
7 Washington, but in 2016, no, I did
8 primarily -- I did all my work in Pittsburgh
9 region.

10 Q And did you stay at different locations
11 around the Pittsburgh region, different
12 hotels or just one?

13 A Yes, I was back and forth in several hotels.
14 They were quite expensive.

15 Q Where did you go from Pennsylvania to collect
16 signatures?

17 A I gave up at that point and returned home to
18 Berea, Kentucky. It was coming up on the
19 season where there were other states beyond
20 Pennsylvania that I could have made myself
21 available, but I have a primary objective of
22 yard work, and so I had to start building my
23 lawn mowing contracts.

24 Q Is your primary employment yard services?

25 A The bulk of it for the last couple of years

1 has been yard services, yes.

2 Q And then if I understand you correctly,
3 during these winter months you'll do this
4 signature gathering because presumably
5 there's no yard work to do in the winter; is
6 that the idea?

7 A Right. Well, a diversification of many
8 aspects, and that is two that fit together
9 well.

10 Q Did you go out on any other signature
11 collecting efforts in the 2016 election cycle
12 after Pennsylvania?

13 A I was recruited for both more work, I think
14 with Benezet in Pennsylvania, with another
15 associate in Alabama. I did not choose to
16 take those on. I was able to get a small
17 amount of signatures in Kentucky along with
18 the effort that was paid there. That was
19 associated with Benezet as he brought in some
20 of his contacts. I was actually paid
21 directly by the party that I'm on the
22 executive committee with.

23 Q Do you know when you collected in Kentucky?

24 A Oh, let's see. I had the opportunity for
25 some time, so I only worked in the very last

1 month before the turn-in date, which was
2 several weeks ago. Worked less than really
3 about a month at the most.

4 Q Other than that small effort in Kentucky, did
5 you collect signatures on behalf of any other
6 candidate, party, initiative, anything like
7 that in the 2016 cycle?

8 A No. That would cover everything for 2016.

9 Q When you were in Pennsylvania collecting for
10 Rocky De La Fuente and Ted Cruz and Ted
11 Cruz's delegate, did you have the signatures
12 that you collected notarized?

13 A I worked cooperatively with the notarization
14 process, but the witness requirement of both
15 jurisdiction and party affiliation had to be
16 fulfilled by an additional witness. In the
17 Republican primary it was the actual delegate
18 who provided me the list and the criteria and
19 traveled with me much of the time. That was
20 a difference in -- from the Rocky De La
21 Fuente, who I'm not sure had a full delegate
22 listing yet, and so we worked with witnesses
23 that we had to arrive at on an hourly basis.

24 Q Let's unpack that a little bit. As it
25 relates to Cruz, did I understand you

1 correctly that your witness was a Cruz
2 delegate?

3 A That's correct. That's the basis on which I
4 worked in 2012 and in 2016.

5 Q And you collected signatures for Cruz and for
6 his delegates, correct?

7 A Yes.

8 Q And then did the delegates sign the affidavit
9 of circulator?

10 A I'm sure they did or the work would not have
11 been turned in.

12 Q And that affidavit of circulator signed by
13 the Cruz delegate was notarized to your
14 knowledge?

15 A Yes.

16 Q And to your knowledge, did you -- when you
17 were getting signatures did you ask if people
18 had signed another petition already or how
19 did you deal with the requirement in
20 Pennsylvania that you can only sign one
21 petition for the primary candidate?

22 A I'm not sure that that is the reading of the
23 law. My understanding was that they had to
24 fulfill both the jurisdiction and the party
25 affiliation. That's the basis upon I went.

1 I guess it gets confused in rhetoric with
2 approaching more candidates more broadly
3 adding the independent and alternatives. So
4 going from state to state you have to re-look
5 at the rules. They're all different. So
6 since I don't live there, I had not committed
7 those to memory.

8 Q With the Rocky collection efforts in
9 Pennsylvania, did you also have a witness
10 come around with you to collect?

11 A Yes. We hired folks from various places that
12 we could find. I did not have any contacts
13 in Pittsburgh myself that were willing or
14 able to put the time forward.

15 Q So did you therefore not collect any
16 signatures for Rocky? I thought you said you
17 did.

18 A No, I did, but we had to arrive at witnesses
19 through hiring them and Benezet took care of
20 that.

21 Q Oh, okay. I understand. So the witnesses
22 were provided to you by Benezet --

23 A Yes.

24 Q -- for Rocky De La Fuente, whereas for the
25 Cruz campaign the delegate acted as your

1 witness?

2 A Right, but it was still in coordination with
3 the Benezet management.

4 Q Very good. And for the Rocky De La Fuente,
5 am I correct that that witness signed the
6 affidavit?

7 A Yes. I had to make sure and step them
8 through that process because they generally
9 did not have any basis or expertise of
10 understanding or competency in the area.

11 Q And were those affidavits signed by the
12 witnesses notarized to your knowledge?

13 A Yes. We would make sure and get them
14 notarized because our payment was dependent
15 upon the notarization.

16 Q Now, as it relates to the Rocky De La Fuente
17 collection effort, did you go door to door on
18 that? Did you go to big events? What was
19 your practice?

20 A We went on the streets to events or just busy
21 street traffic, commercial traffic.

22 Q How about Cruz or the Cruz delegates, did you
23 do the same or did you go door to door?

24 A No, we finally did door to door with the Cruz
25 because we were given some registered voter

1 lists from the Republican party.

2 Q In your experience as a signature gatherer,
3 if you have those walking lists, knowing who
4 are going to be your targeted Republicans,
5 does that make it easier to collect
6 signatures than just being out in traffic?

7 A It generally does because you have to filter
8 so many things beyond just someone's interest
9 in signing, and the party affiliation and the
10 local jurisdiction sometimes is very minor.
11 If you've got delegates, they can't be across
12 certain borders.

13 Q Did you do any signature collecting in 2015?

14 A I don't recall that I did. If I did, it
15 would have been not through Benezet and it
16 would have been a Republican race here -- I
17 mean a governor's race here in Kentucky, but
18 it would have been so brief that it wouldn't
19 have amounted to much.

20 Q How about in 2014, did you do any signature
21 collecting?

22 A I think I did a very small amount, probably
23 was not paid, but it was for a senatorial
24 candidate.

25 Q Was that also in Kentucky?

1 A Yes, Kentucky. The Libertarians challenge
2 against Mitch McConnell.

3 Q How about 2013, did you do any signature
4 collections?

5 A No.

6 Q How about 2012?

7 A Yes, I worked in -- not through Benezet, but
8 I worked the campaign just south of
9 Pittsburgh in Washington County. Also I did
10 a little bit in Altoona, Pennsylvania. And
11 again, these were Republican presidential
12 candidate Rand Paul -- or Ron Paul and the
13 delegates that would follow up in support of
14 them.

15 Q Let me just make sure I understand. So in
16 2012, you collected signatures in
17 Pennsylvania, in Washington, Pennsylvania,
18 and around Altoona, Pennsylvania, for the
19 primary for Republican Rand Paul and for his
20 delegate; is that correct?

21 A I think that's right, but it's -- it's a --
22 I'm forgetting which year Rand started and
23 whether it was his father. It could have
24 been his father. I believe it was Ron Paul,
25 not Rand.

1 Q Did I -- I meant to say Ron Paul. I'm sorry.

2 A Yes. Thank you.

3 Q Thank you for correcting me. How long were
4 you in Pennsylvania that time?

5 A It was about a month.

6 Q And did you move around to different
7 locations in Pennsylvania? I presume so.

8 A Well, I had walking lists, and so it was more
9 convenient, but yes, I worked throughout
10 Pittsburgh and Altoona. I mean, not
11 Pittsburgh, Washington proper. I believe the
12 town and the county are the same name. But
13 around Washington, Pennsylvania, and Altoona.
14 So we had walking lists and it was easier to
15 stay in one motel at that point for each
16 town.

17 Q So did you stay in one hotel the entire month
18 you were in Pennsylvania or did you move
19 around?

20 A No, one hotel per town, so it would have been
21 two.

22 Q Can you give me any estimate as to how many
23 signatures you collected for either Ron Paul
24 or his delegate?

25 A No. It's not something that is trivia that I

1 remember. It paid well enough to stay there
2 for a month and to pay for the hotels.

3 Q Did you work through another company for that
4 or did you work directly for the campaign?

5 A I believe I was working directly for either
6 the campaign or political action committees.
7 I was brought into the industry after first
8 being introduced to it in 1980s by a friend,
9 Andy Jacobs, who is also an associate of
10 Trenton Pool of Benezet, and so some of the
11 payments were coordinated with folks like
12 Andy Jacobs.

13 Q And in 2012, doing the work collecting
14 signatures for Ron Paul and his delegate,
15 since you had the walking lists, am I correct
16 that you primarily went door to door?

17 A That's correct.

18 Q And am I correct that you had a witness with
19 you for that collection?

20 A I was working under the agency of the
21 delegate.

22 Q So you had a Ron Paul delegate as your
23 witness walking with you, correct?

24 A In most cases, yes.

25 Q Did that Ron Paul delegate sign the affidavit

1 of circulator?

2 A Yes.

3 Q And was that notarized to your knowledge?

4 A Yes, absolutely.

5 Q Did you do any other collection in 2012?

6 A Yes. I moved on to Alabama where I worked
7 for three separate third party or independent
8 candidates. I think we covered Green,
9 Constitution and Libertarian Party there. I
10 could gather signatures from any individual
11 for all three if they chose.

12 Q And did you go straight from Pennsylvania to
13 Alabama?

14 A No. It would have been a separate season.

15 Q So after Pennsylvania did you go back to
16 Kentucky? Is that what happened?

17 A Yes.

18 Q And then at some point you went from Kentucky
19 down to Alabama to collect signatures?

20 A Correct, and then more in Kentucky as well.

21 Q How long were you in Alabama for?

22 A I believe that would have been a short run,
23 maybe three weeks.

24 Q And did you go to different parts of the
25 state to collect signatures?

1 A No. I worked in Huntsville and then drove at
2 the end near the deadline to the capital to
3 help collate all the various documents for a
4 last minute turn in.

5 Q When you were doing your collection in
6 Huntsville, did you stay in one hotel or did
7 you move around?

8 A I may have moved for convenience or
9 preference, but it was generally one
10 location.

11 Q And then what did you collect for in Kentucky
12 in 2012?

13 A That would have been just for the Libertarian
14 candidate.

15 Q For president?

16 A For president, and that would be Gary
17 Johnson.

18 Q The Alabama collection for the
19 Green/Constitutional/Libertarian, was that
20 also for president?

21 A All three for president.

22 Q Did you just stay at your home in Kentucky or
23 did you move around?

24 A Right. I live in central Kentucky, in the
25 Bluegrass region, so it was convenient not to

1 have to get motels.

2 Q Can you remember how many signatures you got
3 in Alabama for either the Green,
4 Constitutional or Libertarian?

5 A I do not. It went smoothly. There's always
6 challenges, but it paid well and I don't
7 remember the specific numbers.

8 Q How about in 2011, did you collect any
9 signatures?

10 A No.

11 Q 2010?

12 A No.

13 Q 2009?

14 A Not that I recall.

15 Q 2008?

16 A I'm running a blank. It would have been a
17 minimal amount in Kentucky.

18 Q Do you remember what it was for? Was it for
19 the presidential race or something else in
20 2008?

21 A It would have been presidential and perhaps
22 an additional congressional candidate.

23 Q And both of those were at Kentucky?

24 A Yes.

25 Q Your efforts were in Kentucky?

1 A Yes.

2 Q How about 2007?

3 A Nothing.

4 Q 2006?

5 A No.

6 Q 2005?

7 A No.

8 Q 2004?

9 A It's hard to remember that far back. I
10 believe there may have been some work for a
11 congressional race in Pennsylvania at which I
12 did go to Pittsburgh, but I'm not remembering
13 the year. It was between 2002 and 2004.

14 Q How about 2003?

15 A No.

16 Q So if I understand your testimony correctly,
17 in either 2002 or 2004, you think you did a
18 congressional collection effort in
19 Pennsylvania?

20 A Yes.

21 Q How long were you in Pennsylvania for that
22 collection effort?

23 A I think three or four weeks.

24 Q Do you remember what candidate it was for?

25 A No. The name escapes me. It was a

1 Libertarian candidate.

2 Q And did you actually collect signatures?

3 A Yes.

4 Q And you said you were in Pittsburgh. Did you
5 stay in the same hotel or did you move around
6 at all?

7 A Housing is miserable in Pittsburgh. We
8 probably found multiple locations and moved
9 around just outside of the city limits.

10 Q And did you have a witness accompany you for
11 those signature collections?

12 A As I recall, I believe that's what happened.

13 Q And did you have -- and were those -- did the
14 witness sign the affidavit of the circulator?

15 A I think they did.

16 Q And was it notarized to your knowledge?

17 A Yes.

18 Q How about 2001, any efforts there?

19 A No.

20 Q 2000?

21 A I'm not remembering any. I probably worked
22 on a Kentucky campaign, though.

23 Q So that we don't have to go year by year back
24 to 1980, let me ask a little more generally.
25 Before 2000, can you remember any time that

1 you collected signatures? We'll just hone in
2 on it that way.

3 A Well, my first opportunity was in 1980. The
4 first chance that the Libertarians had to
5 getting coverage in 50 state ballots was only
6 because of the money brought forward by the
7 vice presidential candidate being one of the
8 Koch brothers, David Koch, and I worked five
9 weeks or almost five weeks in Atlanta,
10 Georgia, canvassing for 5,000 signatures.
11 Probably stopped about 13 and a half thousand
12 people to do so.

13 Q Other than what you testified about, have you
14 had any other experience collecting
15 signatures in the Commonwealth of
16 Pennsylvania?

17 A No.

18 Q When you're out collecting signatures, let's
19 take 2016 for example, and whether it's for
20 Rocky as the Democrat in Pennsylvania or Cruz
21 as the Republican in Pennsylvania or his
22 delegate, are you -- do you have any
23 information or knowledge as it relates to
24 what the campaign is looking for in terms of
25 signatures? And let me explain that a little

1 bit so you know where I'm going. If, for
2 example, there's 2,000 signatures that are
3 needed, do you have any information on
4 whether or not the campaign is saying, go out
5 and get me 10,000 or are they saying, you
6 know, get me three or 4,000 or get me 2,000?
7 Do you have any information on that?

8 A We always, with a typical approach, shoot for
9 50 percent more than is required because
10 there are problems inevitable along the way
11 of verification and validation. They
12 absolutely have to fit the criteria of both
13 party affiliation and jurisdiction and be up
14 to date in registration, and so all of those
15 questions are asked in theory. Sometimes
16 people get in a hurry or you ask people that
17 you thought had already heard it asked to
18 another person, but those things are
19 requisite for good quality work that I'm
20 graded on by a percentage rate, and in some
21 places actually don't pay me unless each one
22 of those shows up and is verified as
23 registered.

24 Q So when you -- let's say in 2016 when you
25 were working as an independent contractor for

1 Benezet, I can't remember if I asked you this
2 or not, but did you have a written contract
3 or was it oral?

4 A We looked at a written contract. It never
5 got facilitated in signing both ends, so we
6 had an oral agreement.

7 Q Did you have any terms of that in terms of
8 that you had to have a certain validity rate
9 to be able to get paid?

10 A I'm forgetting. Generally, those are brought
11 into the clauses at levels of two-thirds, and
12 so it's something that I'm expectant to
13 fulfill at any rate, whether it's stated or
14 not.

15 Q And when you were engaged by Benezet to go
16 out and collect signatures, were you given
17 this is how many you need to get, recognizing
18 that typically you want to get 50 percent
19 more than is required for whatever race
20 you're talking about?

21 A Well, those standards are set and shared, but
22 not for the individual petition or signature
23 gatherer. We work as teams and we have to
24 keep checking base to see where we are,
25 but -- so as a community within the process

1 of the mercenary work, we do have to stay in
2 touch and make sure that we are not over
3 target but also not under target, and so
4 those communications happen verbally and on
5 phone throughout the process on a regular
6 basis. I don't know that --

7 Q I'm sorry. Go ahead.

8 A I'm reflecting on the concept of whether my
9 quality of work had been checked, and I don't
10 know that Benezet checked the quality of
11 work. I came in with high ratings from the
12 Kentucky Libertarian Party of at least lower
13 80 percent quality rates, and I received the
14 same kind of acknowledgment from the 30 units
15 of Trump I turned in, which I wasn't working
16 much on the Trump campaign, but a little of
17 that happened as well, and I believe that was
18 in Indiana.

19 Q Did you collect signatures for Trump in
20 Indiana?

21 A Yeah, just -- I got 30 just so I could get to
22 know one of these other middle managers.

23 Q So with regards to what you just said, let me
24 make sure I understand it. When you said
25 you're working in teams with the others, do

1 you mean working in teams in terms of calling
2 and coordinating efforts with the other folks
3 collecting signatures on behalf of Benezet in
4 Pennsylvania?

5 A That's correct, and/or anyone else. If a
6 candidate has a target, multiple independent
7 individual contractors are engaged, and so
8 everyone has to keep tabs on the workload,
9 where it is and that it's not under or over.

10 Q And I'm presuming that when you talk about
11 making sure that it's not over, the
12 candidate, if they're looking to get -- let's
13 take Pennsylvania where there's 2,000
14 signatures to get on the presidential
15 primary. Given your testimony about the
16 typical wanting to get 50 percent over that,
17 let's say 3,000 then. Am I correct that in
18 your experience the campaign is not going to
19 be too happy and is not going to want to pay
20 for 10,000 signatures if they only really
21 needed to get 3,000 to get on the ballot? Is
22 that what you mean by making sure you're not
23 over?

24 A Right, that's correct. It's all a budgetary
25 issue.

1 Q Let me ask it this way: When you're out
2 there collecting door to door for the Cruz
3 campaign, let's say in Pennsylvania, either
4 for Mr. Cruz or his delegates, what's your
5 process? You go up to a house, you knock on
6 the door. Take me through sort of what
7 you're saying and how long that takes and all
8 that sort of stuff.

9 A Well, we start studying the lists and break
10 it down by neighborhood, find areas that are
11 easiest to walk or work with someone in
12 tandem that's driving with to follow along,
13 but we locate the house numbers, have to make
14 notes as to whether they had signed or were
15 not available to even talk to so we know
16 where to go back, picking the densest areas
17 for convenience and practicality.

18 Q So you study the list, you get a game plan of
19 where you want to hit that would be easiest
20 for you, and by that I mean -- I'm assuming
21 you mean that it's going to yield the most
22 valid signatures in the quickest amount of
23 time for you?

24 A Well, the validity of the signatures would
25 not be in question in most cases because

1 we're working from the list. That alleviates
2 that level of the verification. It's just
3 finding the people at home. Odd things
4 happen where someone might be on the list and
5 their child also is in the house but isn't on
6 the list. I had a -- just an odd case where
7 the fellow would sign, but wouldn't even let
8 me talk to the fellow that was on the list
9 because he thought I was just going to get
10 into an argument or a, you know, an hour
11 debate or discussion.

12 Q And is the idea with studying these lists and
13 then game planning where you're going to go
14 to maximize in terms of getting the most
15 signatures in the least amount of time?

16 A That's correct.

17 Q Is that your game plan?

18 A That's correct. Just work the most
19 productive lists and be able to make notes
20 that are clear enough that if I need to go
21 back because of when people are home and not,
22 that that works in a good fluid manner.

23 Q So when you get to a door and knock, let's
24 say somebody answers. What's the normal
25 conversation that you go through with them to

1 get them to sign?

2 A Well, I would represent myself as having
3 gotten the list from the party and ask them
4 if they were, in fact, still registered to
5 the best of their knowledge and would they
6 sign to get these Republican candidates on
7 the ballot for the primary.

8 Q How long does that usually take between the
9 time you knock on the door or -- well,
10 between the time that somebody answers the
11 door and you either get a signature or you
12 walk away because they're not going to sign?

13 A Well, if they're clearly not interested, many
14 folks just don't have time for it anymore,
15 it's under two minutes. Some will require
16 between 10 and 20 minutes depending on how
17 many people are in the house that might need
18 also -- could also be solicited at that
19 point. They may have friends or neighbors,
20 they may have a party going on, and so --

21 Q But if it's just one person, one registered
22 Republican at this house, you knock on the
23 door and that person answers.

24 A Yeah, it's ten minutes.

25 Q Ten minutes even for just one person?

1 A Well, five to ten minutes. If they are on
2 board already they'll sign quickly and not
3 hold you up, but people don't understand the
4 process, so many of them require a lot of
5 explanation as to why I'm doing what I'm
6 doing, how it works, what parts of it don't
7 work.

8 Q What do you mean by that?

9 A Well, just explaining that the requirement of
10 keeping your registration up. Folks that may
11 want to sign, but they're not qualified
12 because they're in another party.

13 Q When you were going door to door in
14 Pennsylvania this past season, this 2016
15 season, can you give me a sense as to the
16 percentage of homes that had somebody in them
17 that answered the door and your ability to
18 get the signature on it? Was it 50 percent,
19 was it 75 percent, was it 10 percent? What
20 could you tell me about that?

21 A I would guess 20 to 40 percent.

22 Q So 20 to 40 percent of the people who
23 answered the door you get their signature?

24 A Yes.

25 Q Do you have any belief as to why the number

1 was 20 to 40 percent as opposed to either 10
2 percent or as opposed to 90 percent?

3 A Well, particularly in this year there's an
4 increase in the disenfranchisement that is
5 voiced and displayed by anyone and everyone
6 asked to participate. They don't want to
7 have anything to do with politics anymore.
8 People are fed up.

9 Q Any other reasons or is that your belief as
10 to why there was a 20 to 40 percent success
11 rate?

12 A Well, there's certainly people that are in
13 another candidate's camp who would have
14 reason not to sign, and so there are some who
15 have already drawn their lines and are not
16 willing to help the ones that are paying me
17 at the time.

18 Q Any other reason that you attribute that to
19 or is that it?

20 A That's it. That covers it.

21 Q When you were collecting back in Pennsylvania
22 in 2012, I think you said it was for Ron Paul
23 and his delegate, correct?

24 A Yes.

25 Q Did you use the same door-to-door technique

1 as you did in 2016 for Senator Cruz?

2 A Yes. We'd have to locate the witness and
3 then travel in the snow and find the best
4 locations that offered a density for
5 productive means.

6 Q Back in 2012, when you were walking door to
7 door collecting for Ron Paul and his
8 delegates here in Pennsylvania, was your
9 success rate in getting signatures any better
10 or worse than the 20 to 40 percent you
11 testified to for this year?

12 A It seemed to be more productive, yes, in
13 2012.

14 Q Can you give me a sense as to what that
15 percentage would be? Would it be 40 to 60,
16 60 to 80?

17 A Oh, I expect it's still probably more than
18 the 20. Maybe 30 to 40. Still not more than
19 40.

20 Q In 2016, when you were collecting for Rocky
21 De La Fuente, I think you testified that that
22 was -- that collection -- you didn't have
23 walking lists for that, correct?

24 A Correct.

25 Q And you were out just on streets and public

1 areas trying to collect signatures; is that
2 correct?

3 A Yes.

4 Q Can you give me any sense as to what your
5 success rate was there in terms of people who
6 you stopped and you got a signature from?

7 A I would guess maybe one in ten as a
8 broad-approach look. Like I say, that
9 compares to Atlanta in 1980; I'd say one out
10 of five that were questioned would sign.

11 Q What do you attribute the one in ten 2016
12 Rocky success rate to, if you have any
13 opinion on that?

14 A Well, again, it's a waning number. It's a
15 waning productivity because more and more
16 people just want to have nothing to do with
17 it.

18 Q Any other reason that you attribute that to
19 or is it the political -- I don't know what
20 the right word is -- yeah, landscape?

21 A The landscape is changing, so that is
22 primary, but folks not being interested,
23 folks having already signed. When you have a
24 glut of petitioners in a neighborhood, then
25 each petitioner starts stepping on one

1 another in terms of the local crowd of the
2 minute.

3 Q When you were collecting for Rocky De La
4 Fuente as a Democrat in Pennsylvania, can you
5 give me the names of any of the folks who
6 were your witnesses?

7 A It's not on the tip of my tongue, any of
8 them. They typically would come from halfway
9 houses, and I think one was Justin. The
10 director of the house -- I can't even
11 remember his first name -- he went out a day
12 or so. But yeah, Justin, but I don't
13 remember last names.

14 Q When you were going door to door in
15 Pennsylvania in 2016 for Cruz and his
16 delegates, how many boards did you have ready
17 for signing? Did you just have one, did you
18 go two? How many did you have?

19 A I carry at least two or three, which isn't
20 necessary for a house call, but it's handy if
21 there's a couple that doesn't want to wait.

22 Q And how about when you were out on the street
23 doing for Rocky De La Fuente? Same, two to
24 three boards, or did you have more?

25 A I prefer two or three.

1 Q So regardless of the situation, you prefer to
2 handle two or three. Why is that?

3 A Again, two is essential to keep a couple
4 happy so they can sign together and not one
5 wait on the other. I'm not sure how much ire
6 that would cause if I didn't do that, but
7 just to keep things pleasant for the industry
8 it's a nice -- it's a nice thing to offer. I
9 know a lot of folks who carry five and six
10 boards and it's just -- it's not convenient.
11 My hand starts to cramp and sweat, falls off.
12 Of course, in the winter it might not, but in
13 the summer your body sweats and drips on the
14 boards. So there's several things that just
15 make it complicated the more you get.

16 MR. JOEL: I believe that's all the questions
17 I have. I'm going to ask if we can take a
18 couple of minutes because I need to hit the
19 restroom and then we'll come back. I'm just
20 going to leave you on the phone --

21 THE WITNESS: Very good.

22 MR. JOEL: -- because I'm afraid if I hit a
23 button to put you on hold or something I'm
24 going to disconnect everybody. Okay?

25 THE WITNESS: So I get cross-examined here in

1 a bit?

2 MR. JOEL: Yeah. I'm sure Mr. Rossi will
3 have some questions for you. I may have some
4 follow up after he's done, but let's take a
5 five-minute break.

6 (OFF THE RECORD)

7 MR. JOEL: I have no further questions at
8 this point. Thank you, Mr. Gailey.

9 THE WITNESS: Thank you, Ken.

10 DIRECT EXAMINATION

11 BY MR. ROSSI:

12 Q Good morning, Mark. This is Paul Rossi. I'm
13 actually your attorney in this matter.

14 A Yes.

15 Q Not that we've ever met. I'll go through a
16 couple of questions with you. Most recently,
17 just in some of your most recent testimony
18 today, you indicated that in this election
19 cycle that you ran into people who had
20 already signed nominating petitions; is that
21 correct?

22 A That's correct.

23 Q Had they not signed a petition before, would
24 they -- did they indicate to you that they
25 would be willing to sign your petition?

1 A Well, it's a complicated question. There are
2 several reasons that they would have signed
3 another one. One would be that they have the
4 same target candidate and so it would be
5 useless to sign again. In other cases, a
6 different candidate altogether may have been
7 the one they signed for and I may have time
8 to clarify that and try to get their
9 signature still. Or in a busy street,
10 they've already moved on and I don't have a
11 chance. I just start -- I just keep on
12 filtering through the crowd.

13 Q And what do you mean by that? You mean when
14 you're working on a street?

15 A Right, when folks are coming through. It
16 could be somebody on my own team that has
17 already asked them or it could be someone
18 from a competing team.

19 Q For those who said they signed for some other
20 candidate, did they indicate that they would
21 be willing to sign for you if they were
22 allowed?

23 A In some cases, yes.

24 Q I want to talk about your witnesses for your
25 circulation nominating petitions for Rocky De

1 La Fuente when he was running as a Democrat.

2 Where exactly did your witnesses come from?

3 A If I had known someone that had time, I would
4 have preferred to work with a friend. I
5 didn't have contacts that had time to be
6 involved and many of them had conflicting
7 interests. For example, pushing Bernie
8 Sanders was a very popular one among my
9 friends that were there. So Trenton Pool
10 with Benezet would work through various
11 levels of putting postings on bulletin
12 boards, posting on Craigslist and then just
13 generally soliciting through other means, by
14 word of mouth, and typically what was most
15 available was folks that had time, for
16 example, at a halfway house. We could secure
17 the understanding that they were qualified
18 because we could check their voter
19 registration, and that would have to be
20 verified because the halfway house may be
21 temporary, but they would need to be there
22 long enough to establish their credentials.

23 Q What was your experience with the witnesses
24 that you worked with for Rocky De La Fuente
25 when he was running for Democrat?

1 A It was -- it was difficult to find folks, so
2 sometimes there were delays. When we did
3 find folks that would work, sometimes it was
4 difficult. They would expect extra ferrying
5 to errands that they would need to have done,
6 and some of that was reasonable, some of it
7 was not. We would have difficulties with
8 them in terms of trust. I think I lost as
9 much as a full sheet of signatures. I forget
10 how many was on the sheet -- ten to thirty,
11 typically -- and I felt like there was a good
12 chance that it might have been robbed by the
13 witness because at some point they come to
14 the understanding that they're needed both on
15 the hourly basis to serve as the witness, but
16 that they could also have some options in
17 circulating some of the sheets themselves,
18 which there was no reason why they couldn't
19 other than their, you know, quality of work
20 and their understanding of the requirements.

21 Q You just testified that you lost a full sheet
22 of signatures of about, how many, 20 to 30
23 signatures?

24 A Yeah, it probably was about 30, sheets of 30,
25 I think.

1 Q And you believe the witness took it and lost
2 it or just took it and --

3 A Oh, I can't -- I cannot blame them directly
4 from any firsthand knowledge, but I am so
5 careful with my work that it just was very
6 disturbing and confusing that I would lose a
7 sheet of work because of the money it
8 represents. And since they had been
9 involved -- I think Justin, particularly, was
10 the one I was working with at the time and
11 had been offered to be able to turn in
12 signatures on his own, that's just like --
13 it's like an asset. If it disappears out of
14 my hands and he can turn it in, he would get
15 rates for that work, and since there is no
16 tracking of me because I'm not allowed to be
17 the one that signs off in front of the
18 notary, then there's not a good way to track
19 the difference between who produces what
20 work.

21 Q So your testimony is that you believe that
22 the signatures were turned in by one of your
23 witnesses rather than -- in other words, they
24 took credit for the signatures rather than
25 you?

1 A I believe that's the most likely scenario as
2 to explain the missing sheet.

3 Q Do you know for a fact that that sheet was
4 turned in?

5 A No, because I wouldn't have had a record
6 with, you know, what the names were. I
7 didn't know any of those people personally
8 and would have not had a good way to
9 recognize it unless I had made special
10 notations.

11 Q Were the witnesses that you worked with for
12 Rocky De La Fuente, did they show up on time
13 at all times?

14 A No. It was very problematic getting in touch
15 with them, getting the day started, finding
16 the best combination of moving forward within
17 that context. They didn't even have a lot of
18 good advice on the busiest neighborhoods or
19 the busiest locations, which I would have
20 hoped they could at least do that, but they
21 may not, you know, traverse the city in a
22 complete fashion to know those kinds of
23 ideas. A petitioner begins to -- with
24 experience begins to pull together categories
25 and have, you know, first spot looks. In

1 each city they have to reexamine that process
2 to be the most productive, and so certainly
3 somebody in a halfway house has not been
4 tasked at considering any of those things.

5 Q And you testified earlier that before you
6 actually went -- you testified earlier that
7 you essentially -- before you actually went
8 and got signatures you did sort of a game
9 plan; is that correct?

10 A Well, you always look at a game plan, but in
11 the context when I said that it was the house
12 to house with the walking list, and the Rocky
13 De La Fuente we did not have walking lists.
14 He didn't have a management team or had not
15 bought the Pennsylvania list, and so we were
16 strictly left to, you know, managing the
17 crowdest, the most dense pedestrian traffic
18 that was allowable. Also that was
19 constrained by issues that even though in the
20 federal first district we're allowed to do
21 Walmart and Kroger's parking lots, but those
22 battles have not been won in any other
23 federal district even though the arguments
24 would be the same.

25 Q So for Rocky De La Fuente, you did not go

1 door to door?

2 A No. No.

3 Q And so you were constrained to working crowds
4 in various locations to gather signatures?

5 A That's correct.

6 Q And it's your testimony that the witnesses
7 didn't add any value with respect to picking
8 the place that you would circulate at?

9 A Generally, that was correct. They may have a
10 good idea --

11 MR. JOEL: OBJECTION.

12 Q Strike that. Let me rephrase. Is it your
13 testimony -- strike that. Did the witnesses
14 assist in selecting your circulation spots?

15 A They had no voluntary information from the
16 outset.

17 Q Now, you just testified that, I believe, that
18 the witnesses wanted you to run them around
19 for errands?

20 A That's correct. Things like job interviews
21 would be the one that I remember
22 specifically. I heard some other grumblings
23 from other petitioners, but that was the one
24 that I recall, that these people are in
25 transition and have some extra side needs,

1 and so to cooperate with them we would have
2 to facilitate some of that.

3 Q So in order to get the witness you had to
4 take them on errands?

5 A On occasion they would be distracting from
6 the main priority.

7 Q And when you were running them to a job
8 interview you were not able to circulate?

9 A That's correct.

10 Q In your experience, what is the prime time to
11 gather signatures?

12 A Any crowded pedestrian event or venue. Bus
13 stops were good. Events, sometime less good
14 because people are racing a deadline to get
15 into a movie or a game. I tend to not choose
16 to go inside the venues like a game.
17 Sometimes you get thrown off and lose the
18 money you've paid for the ticket and
19 sometimes you don't.

20 Q In your experience, is there a time of day
21 where you gather more signatures than other
22 times of day?

23 A The only focus that I have in picking my best
24 times would be when folks are not at bars and
25 not sober. You can get good -- you can get a

1 number of signatures in that scenario, but
2 they become less legible and therefore harder
3 to verify and validate. But time of day is
4 irrelevant if you can find the crowd.

5 Q In 2016, for the nominating petitions, the
6 affidavit circulator had to be executed by
7 your witness, correct?

8 A That's my understanding, that it's a title
9 and that you had to fulfill both jurisdiction
10 and party affiliation to serve in that title
11 even though that generally in most of the
12 states is my job description and my
13 expertise.

14 Q So in most states you are able to execute the
15 petition that you circulate?

16 A That's correct, and in a sense that I am
17 respected to the level that I can sign off on
18 my work and be treated as competent, whereas
19 in Pennsylvania that does not seem to be the
20 case.

21 Q Have there ever been any allegations, to your
22 knowledge, leveled against you with respect
23 to the veracity of your circulation efforts?

24 A Not that I know of.

25 Q Have you ever been charged with election

1 petition fraud?

2 A Absolutely not. To continue making the money
3 you have to have quality work, and we've
4 seen -- I've seen over, you know, many
5 campaigns the problems where there is not
6 quality or veracity or accountability. Folks
7 come in with anything from listings all in
8 the same handwriting straight out of a phone
9 book or every Disney character you can think
10 of.

11 Q Do you have personal knowledge of that?

12 A Not that I would say personal knowledge. The
13 experience goes back many -- you know, all
14 the way to 1980 where I've watched managers
15 have to get a handle on the issue, and
16 certainly they can't continue on the basis
17 where they don't have a handle on it.

18 Q How many hours a day do you like to circulate
19 petitions?

20 A That would be rated only relative to trying
21 to save up and sleep, make good use of rain
22 and bad weather periods, but to be very
23 productive when it's available. Certain
24 crowd events will wax and wane. Campus time
25 with students, students tend to be more

1 friendly or are more willing to be compliant
2 in the requests than a general population.

3 Q No, I'm asking you, you yourself, when you're
4 planning your day, given -- how many hours a
5 day do you like to work, number of hours?

6 A Number of hours? Six to eight would be
7 great. If you're in a good, dense place the
8 money will -- in your own processing of
9 what's practical just to go out and stick it
10 out and do big numbers. Big numbers is the
11 name of the game for quality commission pay,
12 and so it's a combination of not wearing
13 yourself out and getting out in front of the
14 biggest crowds when you can. There's
15 oftentimes when there are just no crowds and
16 that starts to wear a person down and he has
17 to pick and choose and be a little more
18 practical about the sleep that it takes to go
19 out and do it in a healthy manner. But
20 there's no set rule.

21 Q Were you able -- go ahead.

22 A There's no set rules in that. It's really a
23 balancing act. It's a juggling of all those
24 concepts.

25 Q You mentioned that the witnesses in

1 Pennsylvania for Rocky De La Fuente didn't
2 show up and then also you had to run errands
3 with them. Were you able to work the number
4 of hours that you wanted to work?

5 A No, certainly not when it was heavily reliant
6 on finding that witness, making them
7 available to the schedule. It was
8 problematic. A lot of waiting.

9 Q Were there any days that you were not able to
10 work?

11 A There were a few. I would be patient, but,
12 you know, keep pressuring to get the
13 witnesses, and we did the best we could.

14 Q Let me ask you a question, and this -- it's
15 in the realm of I'm more curious, but to get
16 it on the record, do people object to
17 providing any specific piece of data required
18 on the nominating petition in Pennsylvania?

19 A There may likely be one in a hundred that
20 starts to sign and then scratches it out,
21 decides that they didn't want to give their
22 address or their birthday.

23 Q Well, birthday -- if I'm correct, birthday is
24 not on the Pennsylvania nominating petition,
25 correct?

1 A Oh, okay. It all merges together with the
2 many, many states I've worked in. Each state
3 has different rules, yes.

4 Q I understand that and I appreciate that.

5 A Some used to require Social Security, but --
6 I know Kentucky used to and then they decided
7 that that was an option between the birthday,
8 so people don't like to give that certainly.

9 Q Do people object to printing out their
10 address?

11 A Most don't. One in a hundred might.

12 Q Now, when you -- did you take -- when you're
13 getting your petitions executed, did you
14 travel with the witness to the notary public?

15 A I did not travel with them in every case. In
16 many cases, to expedite assurance that I
17 would get paid, I would set that up and go
18 along with. We had extra fees that were
19 given to notaries just for coming out, and
20 the director of this halfway house knew
21 someone in a distant neighborhood who did not
22 have the extra cost but we had to meet their
23 office hours. So depending on the
24 flexibility of the notary, that would all be
25 varied, and if I did not go with the witness

1 to see that it happened and secure the papers
2 that were due me regarding commission
3 payment, we would typically have Trent or
4 someone else in his team to do that. So he
5 was ultimately taking responsibility, but me
6 knowing I had to get paid would certainly
7 facilitate every bit that I could.

8 Q Going back to the situation where you had to
9 drive the witness to a job interview, were
10 you compensated for your gas in transporting
11 the witness?

12 A No. It was just considered a trade-off for
13 the cooperative partnership.

14 Q Is it your understanding that if you did not
15 take the witness to his job interview he
16 would not have shown up?

17 A It would be very likely that he would have to
18 find other means to get to the job interview
19 since what he was doing was very short term.
20 That also kind of paints the quality of his
21 work and his competency and lack of
22 understanding in the whole process, which
23 really, the bottom line, it skewed the
24 hierarchy of the agency because here's an
25 hourly person that really doesn't know and

1 have much investment of his own process that
2 is signing off on work and above me who is
3 the one that, you know, for my own work and
4 my own pay know that I have to do the most
5 accurate and most competent capacity of work.

6 Q I don't understand that answer. Forgive me.
7 Are you saying that -- can you break that
8 down?

9 A Well, what I'd like to say in addendum to
10 that question, this is about -- the problem
11 here is the hierarchy of authority as it's
12 brought from the agency. The secretary of
13 state and the candidate both are asking me to
14 do something --

15 Q Yes.

16 A -- and to do it effectively, to do it
17 honestly and accurately. They've put someone
18 in line of authority above me, between them
19 and me, who has no dog in the fight, has no
20 investment, has no accountability, has no
21 answerability.

22 Q And the person placed above you between the
23 person hiring you to do a good job is this
24 witness?

25 A This witness that typically in a difficult

1 labor market is just someone from a halfway
2 house.

3 MR. ROSSI: I think that's all my questions.

4 MR. JOEL: I've got a couple of follow-ups,
5 Mr. Gailey.

6 THE WITNESS: Yes.

7 RECROSS-EXAMINATION

8 BY MR. JOEL:

9 Q You were talking about going out and
10 collecting signatures for Rocky De La Fuente
11 in Pennsylvania as a Democrat. As the
12 petitioner, you could have opted to go door
13 to door, correct? There's nothing stopping
14 you from doing that.

15 A That's correct. I would have gone to many,
16 many doors where people were not registered
17 or were registered the wrong way, and so that
18 would have slowed me down more than double,
19 probably almost five times as much. I would
20 be probably 20 percent as efficient.

21 Q But that was a decision that you as the
22 professional circulator, you made that
23 decision?

24 A That's right. Short of having a Democrat
25 list or a more full list.

1 Q And you talked about -- when you were talking
2 about people who have signed other petitions
3 or may or may not want to sign your petition,
4 let's say Cruz as a Democrat -- or Cruz as a
5 Republican, I thought you testified earlier
6 that it also could be the case that one of
7 the people you were asking to sign was set in
8 their ways and adamant about their candidate,
9 and as a result wouldn't want to help the
10 candidate you were circulating for; is that
11 accurate?

12 A That's accurate. When I approach and am
13 filtering in a crowd or even door to door, I
14 meet every kind of nuance and situation of
15 their different backgrounds, and so that's
16 just one of many.

17 Q And that would have happened whether it was
18 the Cruz collection or the Rocky De La Fuente
19 collection as a Democrat, correct?

20 A Well, not to the same degree if I'm working
21 from a list that is committed to a party
22 list.

23 Q I understand. I understand that. I mean in
24 terms of you coming across somebody who has
25 already signed for Hillary Clinton, that

1 person may say, I've got my candidate, I'm
2 not signing -- even if I were allowed to sign
3 I'm not going to sign your petition for
4 Rocky, correct?

5 A That's correct.

6 Q And the same thing could be true when you're
7 circulating for Trump. You could have
8 somebody saying, I've already signed for
9 Donald Trump, there's no way in God's green
10 earth I'm signing for Ted Cruz even if I'm
11 allowed to do it, correct?

12 A Yes.

13 MR. ROSSI: OBJECTION. That calls for
14 speculation. You can answer the question.

15 Q In your experience, do people get dug into
16 their candidate and they refuse to sign for
17 other people even if they're allowed to?

18 A Absolutely. That's one of the aspects of the
19 broader population. There are folks in that
20 category.

21 MR. JOEL: That's all I have. I thank you
22 for your time.

23 MR. ROSSI: I have a follow-up on that.

24 REDIRECT EXAMINATION

25 BY MR. ROSSI:

1 Q You testified earlier that there were some
2 people who indicated to you they would sign,
3 but since they did sign you could not take
4 their signature.

5 A Well, that's relative to the different states
6 rules and there's a broad --

7 Q I'm talking about Pennsylvania.

8 A Right.

9 Q When you were collecting for Rocky De La
10 Fuente, is it your testimony people
11 expressed -- people had said they signed --
12 they would sign but they had already signed?

13 A That is correct, and for most of the
14 population they have no idea what the rules
15 are, so much of the time is spent analyzing
16 and breaking that down to make sure people
17 understand what they need to.

18 Q In other states in which you circulated are
19 people willing to sign more than one nominee
20 or one election petition?

21 A Some are; some are not. Many are glad to
22 have as many candidates as they can, and in
23 many states where they're restricted they're
24 very frustrated at not being able to broaden
25 the field more than just the one candidate.

1 Q And you're testifying to that because they've
2 expressed that to you directly?

3 A Absolutely.

4 MR. ROSSI: That's all I have.

5 FURTHER RECROSS-EXAMINATION

6 BY MR. JOEL:

7 Q Mr. Gailey, there are still others who have
8 expressed to you directly, I'm not signing
9 that petition even if I could because I don't
10 want that person to get on the ballot?

11 A Yeah, there are some like that.

12 Q And that's in Pennsylvania and other places?

13 A Oh, absolutely everywhere.

14 MR. JOEL: Okay. Thanks.

15 THE WITNESS: Thank you folks.

16 MR. ROSSI: Do you want to read and sign
17 this, Mr. Gailey? You have that opportunity.

18 THE WITNESS: I don't know that I need to.
19 I'd be glad to if you would prefer that.

20 MR. ROSSI: It doesn't matter to me. It's
21 completely your option.

22 THE WITNESS: No, I don't feel the need to.

23 * * * * *

24 THEREUPON, the deposition of MARK GAILEY was
25 concluded.

1 STATE OF KENTUCKY)
)
2 COUNTY OF JESSAMINE)

3
4
5 I, SHANNON L. WHEELER, the undersigned Notary Public
6 in and for the State of Kentucky at Large, certify that
7 MARK GAILEY, the aforesaid deponent, was by me first
8 duly sworn to testify to the truth, the whole truth and
9 nothing but the truth in the case of BENEZET CONSULTING,
10 LLC, and TRENTON POOL, Plaintiffs, v. PEDRO CORTES and
11 JONATHAN MARKS, Defendants, Case No. 1:16-CV-0074, now
12 pending in the United States District Court for the
13 Middle District of Pennsylvania.

14
15 That the foregoing deposition was taken down in
16 stenograph by me and afterwards reduced to computer
17 transcription under my direction, and the typewritten
18 transcript is a true record of the testimony given by said
19 witness.

20
21 That the Plaintiffs were represented by their
22 counsel, Paul Rossi, telephonically at the taking of said
23 deposition; that the Defendants were represented by their
24 counsel telephonically, Kenneth L. Joel and Nicole J.
25 Radziewicz; that there were no other appearances.

1 That said deposition was taken on behalf of the
2 Defendants pursuant to Notice and pursuant to the Federal
3 Rules of Civil Procedure for the District Courts of the
4 United States.

5
6
7 I do further certify that I am a disinterested person
8 in the cause of action heretofore stated.

9
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16
17 My commission expires: March 23, 2018.

18 IN TESTIMONY WHEREOF, I have hereunto set my
19 Hand and seal of office on this the 17th day of
20 November, 2016.

21
22
23 _____
24 SHANNON LYNN WHEELER,
25 NOTARY PUBLIC, STATE-AT-LARGE
NOTARY ID 415547